

MB 08-30

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Advanced Television Systems )  
And Their Impact Upon the Existing ) MB Docket No. 87-268  
Television Broadcast Service )

To: Office of the Secretary  
Federal Communications Commission

COMMENTS

KRCA License LLC ("KRCA"),<sup>1</sup> licensee of KRCA(TV), Riverside, California, Facility ID Number 22161, by its attorneys, submits the following comment in the above proceeding.

KRCA broadcasts on two out-of core channels, Channels 62 (analog) and 68 (digital). Because both of its channels are out-of-core, KRCA was excluded from the first round of channel elections. In the second and third rounds, KRCA proposed Channel 35 as its post-transition digital channel, based on an assessment of available channels in the Los Angeles market and of the prospect of obtaining concurrence from Mexico for the use of the channel.<sup>2</sup> In Appendix B to the *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking* in this proceeding (the "DTV Table," rel. Aug. 6, 2007), the Commission designated Channel 45 rather than Channel 35 as

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<sup>1</sup> KRCA is an indirect wholly-owned subsidiary of Liberman Broadcasting, Inc.

<sup>2</sup> In the second round, the Commission issued an interference conflict letter to which KRCA responded with a detailed explanation for its selection. The Commission ultimately denied the request.

KRCA's final digital allotment. KRCA would accept an allotment on Channel 45.<sup>3</sup>

KRCA proposed Channel 35 solely to expedite approval by Mexico, which is expected, since Channel 35 has been previously approved by Mexico for the interim DTV operations of Station KMEX-DT in Los Angeles.

KRCA understands that the Commission has referred both Channels 35 and 45 to Mexico for coordination.<sup>4</sup> KRCA assumes that an approval of Channel 35 by Mexico would result in KRCA being allotted Channel 35 as its post-transition channel.<sup>5</sup> In that event, KRCA wants the record in this proceeding to include the views that it has previously expressed with respect to the allotment of Channel 35, especially the flexibility that would be necessary to implement a Channel 35 allotment at KRCA's site on Mt. Harvard. Those views are summarized in its comments submitted August 15, 2007 in the Commission's *Third Periodic Review* proceeding,<sup>6</sup> included as Attachment A hereto. As stated in those comments, it is critically important that the Commission allow licensees with two out-of-core channels greater flexibility with regard to increased interference, just as it did in round one of the channel election process for licensees with one out-of-core channel that sought to return to their analog channels. This is especially

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<sup>3</sup> Domestically, Channel 45 results in less new interference to other stations, less interference received by KRCA, and allows KRCA to operate with higher power.

<sup>4</sup> Undersigned counsel has been advised that Channel 45 was notified to Mexico earlier this year when the Commission referred Appendix B allotments to Mexico, *en masse*, for its approval. On October 22, counsel was advised by staff in the International Bureau that a further referral of Channel 35 would be made to Mexico within the week.

<sup>5</sup> KRCA reiterates that it would accept Channel 45, as proposed by the Commission in Appendix B. Nevertheless, in the interest of reaching a timely decision on its channel allotment and, above all, having sufficient time to construct its post-transition facility, KRCA proposed and would implement Channel 35 as its DTV allotment.

<sup>6</sup> *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Notice of Proposed Rulemaking (rel. May 18, 2007).

true now that channels are even more scare because (1) we are at the end of the channel election process, (2) the Los Angeles market is highly-congested, and (3) Mexico has veto rights. Time is of the essence and KRCA has no other options.

Respectfully submitted,

KRCA LICENSE, LLC

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October 25, 2007

Its Attorneys

**ATTACHMENT A**



**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...  
KRCA License LLC  
...and Thank You for Your Comments**

**Your Confirmation Number is: '2007815997844 '**

**Date Received: Aug 15 2007**

**Docket: 07-91**

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Third Periodic Review of the Commission's	)	MB Docket No. 07-91
Rules and Policies Affecting the Conversion to	)	
Digital Television	)	

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**COMMENTS OF KRCA LICENSE LLC**

KRCA License LLC ("KRCA"),<sup>1</sup> the licensee of KRCA(TV), Riverside, California, hereby submits its comments in response to the Commission's May 18, 2007 Notice of Proposed Rule Making in the above-captioned proceeding (the "DTV NPRM").<sup>2</sup> So that it may have sufficient time to complete construction of facilities on its final, post-transition channel, KRCA urges the Commission to adopt final rules that would relax its interference protection standards in certain circumstances in order to ensure that stations such as KRCA will receive workable in-core channels by the transition deadline.

KRCA is an independent, foreign language full-power television station that has served the community of Riverside, California since 1989, when it began broadcasting on Channel 62. Today, KRCA broadcasts on two out-of-core channels, Channels 62 (analog) and 68 (digital). Because both of its channels are out-of-core, KRCA was one of several stations that was precluded from participating in the first round of digital channel elections.<sup>3</sup> In the second round of the digital channel election process, KRCA proposed Channel 35 for its final post-transition

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<sup>1</sup> KRCA is an indirect wholly-owned subsidiary of Liberman Broadcasting, Inc.

<sup>2</sup> *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Notice of Proposed Rulemaking (rel. May 18, 2007).

<sup>3</sup> *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, FCC 04-192, at ¶ 44 (rel. Sept. 7, 2004).

DTV channel allotment.<sup>4</sup>

After reviewing KRCA's second round choice, the Commission issued an interference conflict letter advising that KRCA's election of Channel 35 would cause impermissible levels of interference to neighboring stations. On April 10, 2006, KRCA provided the Commission a detailed explanation of why, notwithstanding the interference caused to stations KMEX-TV, KNBC, and K35DG, it should be assigned Channel 35 as its final, post-transition DTV allotment.<sup>5</sup>

In its Seventh Report and Order and Eighth Notice of Proposed Rule Making, however, the Commission designated Channel 45 rather than Channel 35 as KRCA's final, post-transition DTV allotment.<sup>6</sup> KRCA recognizes that, from a technical perspective, its assignment to Channel 45 may be preferable in several respects to its election of Channel 35: less new interference is caused to KMEX-TV and KNBC,<sup>7</sup> less interference is received by KRCA, and the station can broadcast at a higher power.<sup>8</sup> Nevertheless, significant obstacles including, most importantly, the need for Mexican coordination, inhibit KRCA's ability to build its final post-transition facility and to commence digital operations on Channel 45 before Congress' "hard deadline." In order to ensure that KRCA is assigned, with sufficient time to complete construction, a fully authorized digital allotment at its current site at the Mount Harvard/Mount Wilson "antenna farm," KRCA urges the Commission to adopt final rules that will provide KRCA and similarly situated stations with the regulatory flexibility to find post-transition allotments for which

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<sup>4</sup> See BSRECT-20051028ACX.

<sup>5</sup> See BSRCT-20060410ADO.

<sup>6</sup> *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MB Docket No. 87-268, Seventh Report and Order and Eighth Further Notice of Proposed Rule Making (rel. Aug. 6, 2007), Appendix B ("DTV Table").

<sup>7</sup> In light of recent modifications, K35DG is not included because under that station's revised parameters, KRCA's proposed use of Channel 35 would produce *less* interference than the channel's current occupant, KMEX-TV. See BLTTA-20060621AAL.

<sup>8</sup> Compare DTV Table to BSRCT-20060410ADO (Exhibit 3).

expedited international coordination is feasible.

**I. PRE-TRANSITION INTERNATIONAL COORDINATION OF CHANNEL 45 MAY NOT BE POSSIBLE.**

KRCA's transmitter is located 206 km from the U.S. – Mexico border, which places it well within the 275 km coordination zone.<sup>9</sup> As the Commission has previously noted, Southern California is "one of three regions where ... DTV service [is] most in jeopardy" due to spectrum congestion.<sup>10</sup> Thus, in order to facilitate the digital transition, KRCA proposed Channel 35, a channel that was not expected to pose significant U.S – Mexico coordination issues.<sup>11</sup> Based on KMEX-TV's current, pre-transition use, KRCA believed that the Commission would be able to secure any necessary Mexican approval for use of Channel 35 quickly, barring unforeseen difficulties.

The Commission's ability to coordinate use of Channel 45, however, is subject to a number of potential pitfalls. A Mexican broadcaster, *Televisia*, currently operates XHBJ-TV on Channel 45 (analog) from a transmitter in Tijuana, Mexico. Although KRCA believes that the potential areas of interference between the two stations would lie solely within the United States, it nevertheless is concerned that XHBJ-TV's use of Channel 45 could be viewed by the Mexican authorities as sufficient cause to delay or to deny the Commission's coordination request.

With the looming digital transition deadline, any significant delay in the coordination process could place KRCA in an untenable position of not having a fully-approved digital allotment on February 18, 2009. Unless the Commission can quickly coordinate use of Channel

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<sup>9</sup> *Memorandum of Understanding Between the Federal Communications Commission and the Secretaria de Comunicaciones Y Transportes of the United Mexican States Related to the Use of the 54-72 MHz, 76-88 MHz, and 470-806 MHz bands for the Digital Television Broadcasting Service Along the Common Border*, July 22, 1998.

<sup>10</sup> *KRCA LICENSE CORP.; To Modify the Licensed Facilities of Television Station KRCA(TV) Riverside, California; KSLI, INC.; To Modify the Licensed Facilities of Television Station KSLI(TV) Long Beach, California; GOLDEN ORANGE BROADCASTING CO., INC.; To Modify the Licensed Facilities of Television Station KDOC(TV) Anaheim, California*, Memorandum Opinion and Order, 5 FCC Red 1794, ¶ 18 (1999).

<sup>11</sup> See BSRCT-20060410ADO (noting that Channel 35 has already been coordinated for KMEX-TV's pre-transition digital use).



45, Channel 35, or another appropriate channel with the Mexican authorities, KRCA will not have sufficient time to construct its final, post-transition facilities before the 2009 deadline. While it is true that other broadcasters have not yet received construction permits authorizing the build-out of final, post-transition digital facilities, they have generally been able to order equipment in reliance on their approved channel elections, as adopted in the recently released DTV Table. KRCA's situation is more precarious: it cannot place an equipment order in the manufacturers' growing queues because it does not know whether Channel 45 will ultimately be approved, or whether another DTV channel will have to be found.

The effects of delays caused by the coordination process are compounded by the fact that KRCA is statutorily prohibited from remaining on Channel 68, even on a temporary basis, after the transition.<sup>12</sup> Thus, the assignment of Channel 45 to KRCA could lead to the possibility that on February 18, 2009, KRCA will fall silent. As the Commission itself observed in the *DTV NPRM*, "[p]roposals that would result in a *loss* in TV service have been considered to be *prima facie* inconsistent with the public interest."<sup>13</sup> In addition to harming the public's interest in KRCA's post-transition Spanish-language broadcasts, the Commission's allotment decision could also expose KRCA to significant financial harm during any period of time in which it is silenced while it waits for Mexican coordination, the manufacture of its digital equipment for a yet to be determined post-transition channel, and installation of its new equipment.<sup>14</sup>

## **II. CHANNEL 35 PROVIDES A WORKABLE ALTERNATIVE FOR KRCA.**

The Commission denied KRCA's election of Channel 35 because it believed that use of Channel 35 would create undesirable levels of new interference to adjacent full-power digital

<sup>12</sup> See Digital Television and Public Safety Act of 2005 ("DTV Act"), Pub. L. No. 109-171, 120 Stat. 4 (2006).

<sup>13</sup> DTV NPRM, ¶ 38 (emphasis added).

<sup>14</sup> KRCA's conservative estimate is that construction of its full-power post-transition facilities will require *at least* one year from the date that Mexico approves the use of a digital channel operated at KRCA's authorized site. This includes time for the order, manufacture, and delivery of equipment as well as the scheduling of tower crews.

stations KMEX-TV (Channel 34) and KNBC (Channel 36).<sup>15</sup> In light of the public's interest in maintaining access to KRCA's post-transition service, however, the small amount of new interference created for KMEX-TV (1.17%) and KNBC (0.24%) by KRCA's "maximized" operation on Channel 35<sup>16</sup> appears to be justified and, indeed, is consistent with the Commission's routine approval of other stations' first round channel elections.<sup>17</sup>

The Commission's digital channel election process generally applied the same stringent interference protection standard in both the first and second rounds of channel elections.<sup>18</sup> In both rounds, a conflict was deemed to exist if a proposed facility would cause more than 0.1% interference in addition to existing interference. However, in the first round, licensees with out-of-core DTV channels were permitted to exceed this interference level to afford those licensees an improved opportunity to select their in-core NTSC channels. In general, the FCC approved such in-core first round elections if they did not cause more than 2.0% additional interference. KRCA respectfully submits that a similar approach should have been taken in the later rounds. Indeed, as available channels became increasingly scarce (especially in frequency coordination zones) as the elections progressed, there is no apparent basis for allowing regulatory flexibility in the first round to stations with one in-core channel while denying regulatory flexibility to stations with *no* in-core channel in later rounds.<sup>19</sup>

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<sup>15</sup> K35DG is omitted because of a change in that facility. *See note 7, supra.*

<sup>16</sup> *See* BSRCT-20060410ADO (Engineering Statement).

<sup>17</sup> For example, the Commission allowed Waco, Texas stations KWTX-TV and KWKT(TV) to cause new interference of 0.5% and 1.6%, respectively, to neighboring stations.

<sup>18</sup> As noted above, because of its two out-of-core channels, KRCA was not permitted to participate in the first round of channel elections.

<sup>19</sup> As KRCA has demonstrated in its prior submissions, new interference levels resulting from KRCA's proposed "maximized" use of Channel 35 would conform to the Commission's overall 2% limit used in the first round channel election process. In addition, the differences in the interference caused to KMEX-TV and KNBC by KRCA's replication of its facilities on Channel 35 and its certified maximized facilities fall well within the DTV NPRM's proposed 0.5% interference protection standard. *See* DTV NPRM ¶¶ 103-112; BSRCT-20060410ADO (Engineering Statement, Table 2A).

For other groups of stations, such as those remaining on their in-core channels, the Commission has acknowledged the delays caused by international coordination and has proposed final rules that would allow stations impacted by the Commission's coordination efforts to apply for waivers or extensions of existing construction permits.<sup>20</sup> The Commission's proposed rules provide little comfort, however, to stations such as KRCA, which have not yet received a fully-approved allotment, let alone a construction permit. Accordingly, the Commission should adopt final rules that would provide all television broadcasters with greater regulatory flexibility and would ensure that stations such as KRCA are not forced off the air on February 18, 2009. Specifically, the Commission should satisfy the public's "most significant"<sup>21</sup> interest in the digital transition and relax interference protection standards – as it has in the past – to ensure that every broadcaster has a workable, in-core channel by the transition deadline.

Respectfully submitted,

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Dated: August 15, 2007

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<sup>20</sup> See DTV NPRM ¶¶ 22, 83, 87.

<sup>21</sup> *Id.* ¶ 41.